

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

MICHAEL NEAL DUFF

*

Plaintiff,

*

v.

* CIVIL ACTION NO. 1:06-CV-24-T

GREG WARD, *et al.*,

*

Defendants.

*

ORDER

Plaintiff, an inmate incarcerated at the Geneva County Jail, filed this 42 U.S.C. § 1983 on January 11, 2006. He complains about the conditions of confinement in the jail. Among the named defendants are "Jail Administration."

The Federal Rules of Civil Procedure do not provide for fictitious party practice as it is incompatible with federal procedure. *See* Rule 10(a) ("[i]n the complaint, the title of the action shall include the names of all the parties . . ."); *New v. Sports and Recreation, Inc.*, 114 F.3d 1092, 1094 at n.1 (11th Cir. 1997) (fictitious party practice not permitted in federal court and plaintiff's failure to name parties required that court strike parties.); *Watson v. Unipress*, 733 F.2d 1386, 1388 (10th Cir. 1984) (plaintiff did not amend her complaint with identities of unknown defendants, and, therefore, no one directly involved in incident was named as defendant.). In light of the foregoing and, the court deems it appropriate to require Plaintiff to file an amendment to his complaint in order to identify the fictitious defendant.

Accordingly, it is ORDERED that:

1. On or before January 27, 2006 Plaintiff shall file an amendment to his complaint which informs the court of the true names of "Jail Administration" who allegedly violated his constitutional rights. Plaintiff is cautioned that if he fails to properly respond to this directive these individuals will not be considered parties to this cause of action and they will be dismissed from this case. *Hindes v. The Federal Deposit Insurance Corp.*, 137 F.3d 148, 155 (3rd Cir. 1998) (case law requires dismissal of fictitious parties when their proper identities are not submitted to the court.);

2. Plaintiff's amended complaint should specifically describe how each of the individuals identified in accordance with this order violated his constitutional rights. In his response to this directive, Plaintiff must **separately** list each person and delineate by his/her name the actions and/or conduct which Plaintiff contends violated his constitutional rights. Additionally, Plaintiff shall set forth **short and plain statements** showing why he is entitled to relief. Each allegation in the amendment should be **simple, concise and direct**. *See* Rule 8, *Federal Rules of Civil Procedure*.

Done this 13th day of January, 2006.

/s/ Vanzetta Penn McPherson
VANZETTA PENN MCPHERSON
UNITED STATES MAGISTRATE JUDGE